

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY: CIVIL TERM: PART 27

DR. MAC TRUONG,

Plaintiff,

- against -

Index No.
604650-97

CHARLES SCHWAB & CO., INC., MEMBER SIPC,
NEW YORK STOCK EXCHANGE,

Defendants.

CHARLES SCHWAB & CO., INC.,

Defendant and 3P Interpleading Plaintiff,

- against -

TRAN DINH TRUONG, VISHIPCO LINES and DAI NAM HANG HAI
CONGTY VISHIPCO LINES OF VIETNAM,

3P Interpleading Defendants.

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60 Centre Street
New York, New York 10007
March 13 March 13, 2003

B E F O R E:

HONORABLE IRA GAMMERMAN,
Justice

A P P E A R A N C E S:

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RICHARD S. FEIS
Senior Court Reporter

1 Proceedings

2 THE COURT: This case is 17084. That number
3 should appear on all papers or communications.

4 This is a motion to punish Dr. Truong for
5 contempt based on his, I take it removal of certain
6 assets that he shouldn't have removed, correct.

7 MR. BROOKS: That's correct your Honor. The
8 second time that he violated the June 14, 1999 orders of
9 this court. The last time you held him in contempt in
10 April.

11 THE COURT: My recollection is he returned
12 those funds?

13 MR. BROOKS: He then-- he finally returned
14 those assets.

15 This time he should be incarcerated today
16 until he returns what is missing now which is \$129,956.

17 THE COURT: Judge Dankberg, what do you say?

18 MR. DANKBERG: Two things. First of all, it's
19 only alleged. Alleged that Dr. Truong--

20 THE COURT: He denies doing this?

21 MR. DANKBERG: They don't demonstrate it.

22 THE COURT: Does he deny it?

23 MR. DANKBERG: Your Honor, I have a
24 cross-motion.

25 THE COURT: I am not interested in the
26 cross-motion at the moment.

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2 Does he-- listen to me. Does he deny doing
3 this?

4 MR. DANKBERG: I don't know, I haven't asked
5 him.

6 THE COURT: All right.

7 Counselor, why don't you ask him. He has been
8 your client since the day before yesterday; you haven't
9 asked him?

10 MR. DANKBERG: Two days ago.

11 THE COURT: You said that you were retained by
12 him the day before yesterday.

13 MR. DANKBERG: That's correct.

14 THE COURT: You haven't asked him whether or
15 not he has done this?

16 MR. DANKBERG: I haven't asked him whether or
17 not he has done that, correct.

18 MR. BROOKS: Your Honor, an exhibit to your
19 papers--

20 THE COURT: Speak up.

21 MR. BROOKS: Exhibit D to our papers is a
22 letter he wrote, Mr. Truong wrote to Judge Stein in
23 Southern District that had done it. That's how I found
24 out.

25 MR. DANKBERG: That's not accurate, not an
26 accurate characterization.

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2 THE COURT: One at a time.

3 MR. BROOKS: If you will read Exhibit D.

4 THE COURT: I'm reading it.

5 Where does he say he is withdrawing the funds.

6 MR. BROOKS: He attached three confirmations
7 showing that three accounts were transferred out by
8 Schwab at his request to Waterhouse Securities in the
9 affidavit by Steven Murphy of Schwab. He swore that he
10 called Waterhouse. He found out that Waterhouse--

11 THE COURT: The motion is granted.

12 Anything you want to say?

13 MR. DANKBERG: Before you say a word about
14 granting or not.

15 You issued an order to show cause a couple of
16 days ago direct service of papers to Dr. Truong.
17 Yesterday there was handed up to you what was claimed to
18 be an affidavit of service for those papers. The
19 affidavit of service is strange because it doesn't say
20 they were served. They say they were caused to be
21 served. The papers were not served upon Dr. Truong in
22 accordance with the order to show cause.

23 I have prepared a motion cross-motion.

24 THE COURT: Your cross-motion is denied.

25 Judge, you tell your client to be here Monday. I will
26 arrange to have him incarcerated on Monday unless these

2 accounts are restored to Schwab.

3 MR. DANKBERG: Look at the papers.

4 THE COURT: Judge, you tell your client to be
5 here Monday at 4 o'clock or he will be incarcerated on
6 Monday at 4 o'clock unless at that point the money has
7 to been returned to the accounts.

8 Anything else?

9 MR. DANKBERG: One sentence.

10 You said on September 25, 2002 that this case
11 was finished. You have nothing more to do with this
12 case.

13 THE COURT: Your client has re-excited my
14 interest.

15 In any event, I am directing him through you
16 to be here at 4 o'clock. Unless the funds are
17 restored-- if the funds are restored to those accounts
18 he doesn't have to show up. And I will mark the motion
19 withdrawn. If the funds are not restored tell him to
20 bring his toothbrush.

21 MR. BROOKS: May I hand up some papers?

22 MR. BROOKS: Hand it up.

23 (Whereupon, a warrant of arrest papers are
24 handed up to the Court.)

25 THE COURT: I will sign it Monday. I will
26 arrange to have him arrested on Monday if, hopefully it

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2 won't be required, because I hope he will return the
3 funds.

4 MR. DANKBERG: May I give you the cross-motion
5 please?

6 THE COURT: No.

7 You serve it any time you want.

8 MR. DANKBERG: It has been served.

9 THE COURT: Well, all right. The cross-motion
10 is denied.

11 Let's move on.

12 I will see you at 4 o'clock on Monday
13 hopefully not.

14 If he doesn't return the money and he is not
15 here 4 o'clock Monday, I will arrange to have him picked
16 up and brought before me for incarceration.

17 MR. DANKBERG: Talking about, just about
18 \$130,000; is it possible instead of Monday to be later
19 in the week?

20 THE COURT: No, Monday.

21 MR. BROOKS: Thank you, your Honor.

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24 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT
25 OF THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS
26 PROCEEDING.


Richard S. Feis
Senior Court Reporter